

COMMISSIONER FOR PATENTS
Alexandria, VA 22313-1450



Docket No.: 300,1042
Date: August 25, 2003

9200

In re application of: Lawrence Friedhoff et al.
Serial No.: 10/067,593
Filed: February 5, 2002
For: Method of Treating Amyloid Beta Precursor Disorders

Sir:

Transmitted herewith is a Petition Requesting Withdrawal Of The Holding Of Abandonment in the above-identified application.

- Small entity status under 37 C.F.R. 1.9 and 1.27 has been previously established.
- Applicants assert small entity status under 37 C.F.R. 1.9 and 1.27.
- No fee for additional claims is required.
- A filing fee for additional claims calculated as shown below, is required:

- Also transmitted herewith are:
 - Petition for extension under 37 C.F.R. 1.136 (in duplicate)
 - Other: -Exhibit A (14 pages)
 - Exhibit B (1 page)
 - Exhibit C (2 pages)
- Check(s) in the amount of \$00.00 is/are attached to cover:
 - Filing fee for additional claims under 37 C.F.R. 1.16
 - Petition fee for extension under 37 C.F.R. 1.136
 - Other:
- The Assistant Commissioner is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-0552.
 - Any filing fee under 37 C.F.R. 1.16 for the presentation of additional claims which are not paid by check submitted herewith.
 - Any patent application processing fees under 37 C.F.R. 1.17.
 - Any petition fees for extension under 37 C.F.R. 1.136 which are not paid by check submitted herewith, and it is hereby requested that this be a petition for an automatic extension of time under 37 CFR 1.136.

Robert J. Paradiso by David J. Kassel
Robert J. Paradiso, Reg. No. 41,240
DAVIDSON, DAVIDSON & KAPPEL, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018
Reg. No. 45,991
Tel: (212) 736-1940
Fax: (212) 736-2427

I hereby certify that this correspondence and/or documents referred to as attached therein and/or fee are being deposited with the United States Postal Service as "first class mail" in an envelope addressed to "Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on August 25, 2003

DAVIDSON, DAVIDSON & KAPPEL, LLC

Randolph McQueen



RECEIVED

SEP 3 00 1042
2003

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Examiner: S. Jiang

Art Unit: Not Known

Re: Application of: Lawrence Friedhoff et al.

Serial No.: 10/067,593

Filed: February 5, 2002

For: **METHOD OF TREATING AMYLOID BETA PRECURSOR DISORDERS**

PETITION UNDER 37 CFR 1.181(a) REQUESTING WITHDRAWAL OF THE HOLDING OF ABANDONMENT

Mail Stop: Petition
Commissioner For Patents
Alexandria, Va 22313-1450

August 25, 2003

Sir:

The law firm of the undersigned attorney has been notified that a Notice of Abandonment from the U.S. Patent and Trademark Office with regard to the above-identified U.S. patent application, has issued. The Examiner informed the undersigned that the Notice of Abandonment was dated July 1, 2003 and that the Notice of Abandonment stated that the application was being abandoned due to Applicants' failure to timely file a reply to an Office letter mailed on July 22, 2002.

The undersigned attorney hereby declares that thorough searches of the file jacket for the above-identified patent application and firm docket records were made, and these searches indicate that no Office letter dated July 22, 2002 was ever received by this law firm. As evidence of such, in accordance with M.P.E.P. § 711.03 (c), Applicants herewith submit a true copy of the

docket record for the law firm Davidson, Davidson & Kappel, LLC as Exhibit A, showing all replies docketed for the date (August 22, 2002), 1 (one) month from the mailing date of the non-received Office letter dated July 22, 2002. This docket record bears contemporaneous markings indicating fulfillment of certain of the docketed actions. However, the docket record does not show the due date for reply to the non-received Office letter of the present application, indicating that the Office letter was never received.

Applicants, therefore, petition the Assistant Commissioner for Patents to withdraw the holding of abandonment for failure to timely reply to the Office letter dated July 22, 2002, because Applicants' attorneys never received a copy of any Office letter that would have informed them of the obligation to reply.

Further, Applicants respectfully submit that the correct correspondence address was made of record by the Applicants at the time of filing the application. Pursuant to 37 CFR § 1.33 (enclosed as Exhibit B), “[w]hen filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. Applicants acted accordingly, as the correspondence address of, **“Davidson, Davidson & Kappel, LLC, 485 Seventh Avenue, 14th Floor, New York, NY 10018”**, was included on the Declaration and Power of Attorney on the date of filing the application (February 5, 2002). Additional evidence of the correspondence address being made of record in papers submitted with the application on the date of filing, is the fact that the above address was included on the Utility Application Transmittal Form, filed on February 5, 2002.

Applicants submit as Exhibit C, a copy of chapter 403, in the Manual of Patenting Examining Procedure, Eighth Edition, Incorporating Revision No.1, which reads, “[a] Customer Number . . . may be used to:(A) designate the correspondence address of a patent application by a Customer Number such that the correspondence address for the patent application would be the address associated with the Customer Number . . .” Applicants respectfully submit that

Applicants' Customer Number (23280) was included on the Utility Application Transmittal Form on February 5, 2003, the date of filing. Pursuant to the above-referenced chapter of the MPEP, the Customer Number 23280, should have been associated with Applicants' correspondence address of "485 Seventh Avenue, New York, NY 10018". Chapter 403 of the MPEP further reads, ". . . any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any other correspondence address provided in that application would be resolved *in favor of the address of the Customer Number.*" (Emphasis added)

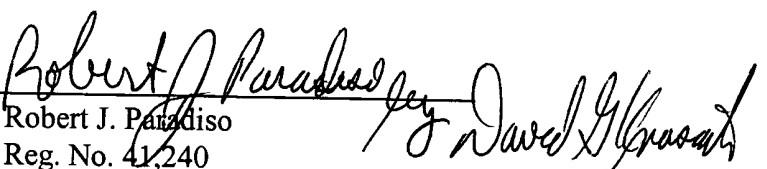
Applicants, therefore, petition the Assistant Commissioner for Patents to withdraw the holding of abandonment because Applicants' attorneys never received a copy of any Office letter that would have informed them of the obligation to reply.

This petition is being filed within two months of the mailing date (July 1, 2003) of the Notice of Abandonment from the U.S. Patent and Trademark Office. Thus, in accordance with 37 C.F.R. § 1.181(f), this petition is considered timely filed.

No fee is believed due. However if any additional fees are deemed to be due at this time, the Assistant Commissioner is authorized to charge payment of the same to Deposit Account No. 50-0552.

Respectfully submitted,
DAVIDSON, DAVIDSON & KAPPEL, LLC

By


Robert J. Paradiso
Reg. No. 41,240

Davidson, Davidson & Kappel, LLC
485 Seventh Avenue, 14th Floor
New York, New York 10018
(212) 736 - 1940

SEP 02 2003

TECH CENTER 1600/2000



EXHIBIT A

DAVIDSON, DAVIDSON KAPPEL, LLC

*glu 2. 2002 letter
DRAFT TO U.S. SOCKET REPORT THROUGH AUGUST 29, 2002
CONTINUATION*

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REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO/FILING DATE	DISPOSITION	REASSIGNED TO... (NEW REMINDER OR DUE DATE)
22-Aug-02	OFFICE ACTION RESPONSE DUE 8/27/02 (HEADLINE DATE)	CMD/RJP	BSD	332.94302 JP DIV	11-219274		
22-Aug-02	OFFICE ACTION RESPONSE DUE 8/27/02 (W/2 MO. EXT.)	CMD/RJP	BSD	228.1012	09/979852 11/27/01		
22-Aug-02	OFFICE ACTION RESPONSE DUE 9/5/02 (3 MONTH DATE)	CMD/RJP	BSD	332.1122	09/918361 7/30/01		
22-Aug-02	PROVISIONAL AND CONVENTION YEAR ENDS 9/5/02	CMD/RJP	BSD	478.1022P	60/317508 9/5/01		
22-Aug-02	PROVISIONAL & CONVENTION YEAR ENDS 8/29/02	CMD/RJP	BSD	478.1020P	60/315894 8/29/01		
22-Aug-02	FINAL OFFICE ACTION RESPONSE DUE (W/2 MO. EXT.)	CMD/RJP	BSD	332.1113	09/730938 12/6/00		
22-Aug-02	SEND REPORTING LETTER RE: PUBLICATION	CMD/RJP	BSD	200.1079 CON 7	10/056342 1/25/02		
22-Aug-02	SEND REPORTING LETTER RE: PUBLICATION	CMD/RJP	BSD	200.1079 CON 2	10/056347 1/25/02		

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DOCKET REPORT THROUGH AUGUST 29, 2002

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REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO./FILING DATE	DISPOSITION	REASSIGNED TO... (NEW REMINDER OR DUE DATE)	REDOCKET TO... (NEW REMINDER OR DUE DATE)
22-Aug-02	1-3RD YEAR ANNUITIES DUE 9/5/02 ASSOCIATE WANTS INSTRUCTIONS BY 8/29/02	CMD/RJP	BSD	332-94205 JP		7-502570		
22-Aug-02	OFFICE ACTION RESPONSE DUE 9/19/02 (DEADLINE DATE)	CMD/RJP	CER	200-1066 JP		1999-507477		
22-Aug-02	SEND REPORTING LETTER RE: OFFICE ACTION RECEIVED	CMD/RJP	CER	200-1134	09/781076 2801			
22-Aug-02	ORIGINAL POWER OF ATTORNEY FORM DUE	CMD/RJP	CER	200-1133 ID		NEW APPLICATION		
22-Aug-02	SERVE EVIDENCE BY 8/25/02 (W/3 MO. EXT.)	CMD	CMD	200-94329 AU DIV	716793			
22-Aug-02	OFFICE ACTION RESPONSE & SEQUENCE LISTING DUE 9/19/02 (W/2 MO. EXT.)	CMD	CMD/FSA	382-1031	09/783117 2/15/01			
22-Aug-02	RECEIVED NOTICE OF ALLOWANCE OR FILE NOP BY 9/12/02?	CMD	CMD/FSA	382-1026	09/280030 3/26/99			
22-Aug-02	PRINTING/ISSUE FEES DUE 1/1/03	CMD	CMD/MBW	817-1001 CA	2243643			

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22-Aug-02	OFFICE ACTION RESPONSE DUE (3 MONTH DATE)	CSK	CSK	150.1013	09/7/16032 11/17/00		
22-Aug-02	FILE MISSING PARTS & DRAWINGS DUE 8/24/02	CSK	CSK/MBW	174.1022	10/15/2002 5/21/02		
22-Aug-02	OFFICE ACTION RESPONSE DUE 8/27/02 (W/2 MO. EXT.)	CSK	CSK/MBW	423.1024	09/7/1477 11/29/00		
22-Aug-02	FILE MISSING PARTS DUE 9/22/02	CSK	CSK/MBW	114.1005	NEW APPLICATION		
22-Aug-02	19TH MONTH NATIONAL PHASE DUE 8/26/02	CSK	CSK/SJM	218.1002 PCT	PCT/US02/00909		
22-Aug-02	19TH MONTH NATIONAL PHASE DUE 8/26/02	CSK	CSK/SJM	218.1004 PCT	PCT/US02/00905		
22-Aug-02	19TH MONTH NATIONAL PHASE DUE 8/26/02	CSK	CSK/SJM	218.1005 PCT	PCT/US02/01002		
22-Aug-02	INVITATION TO CORRECT DEFECTS DUE 9/5/02	CSK	CSK/SJM	218.1009 PCT	PCT/US02/21985		

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22-Aug-02	OFFICE ACTION RESPONSE DUE (3 MONTH DATE)	CSK	CSK/SJM	206.1123	09/636041 8/10/00			
22-Aug-02	FILE MISSING PARTS DUE 9/22/02	CSK	CSK/SJM	218.1006	10/175137 8/19/02			
22-Aug-02	ISSUE FEE & DRAWINGS DUE 8/23/02	LBD	CSK/SLA	541.1024	09/384130 8/27/99			
22-Aug-02	GRANT FEES AND CLAIMS FOR DIVISIONAL DUE (DEADLINE DATE)	CMD/RJP	DGK	200.1102 SG	200003321-7			
22-Aug-02	GRANT FEES AND CLAIMS FOR DIVISIONAL DUE (DEADLINE DATE)	CMD/RJP	DGK	200.1113 SG	200003322-5			
22-Aug-02	FILE NEW APPLICATION BY 10/13/02	CSK	ERS/JMD	520.1022	NEW APPLICATION			
22-Aug-02	OFFICE ACTION RESPONSE & SEQUENCE LISTING DUE 9/19/02 (W/2 MO. EXT.)	CMD	FSA	382.1031	09/763117 2/15/01			
22-Aug-02	RECEIVED NOTICE OF ALLOWANCE OR FILE NOP BY 9/12/02?	CMD	FSA	382.1026	09/28030 3/26/99			

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22-Aug-02	FILE NEW APPLICATION BY 8/27/02	CSK/WCG	JMD	342.1002	NEW APPLICATION			
22-Aug-02	FILE NEW APPLICATION BY 8/29/02	CSK/WCG	JMD	487.1054	NEW APPLICATION			
22-Aug-02	FILE NEW APPLICATION BY 10/13/02	CSKERS	JMD	520.1022	NEW APPLICATION			
22-Aug-02	OFFICE ACTION RESPONSE DUE 8/23/02 (3 MONTH DATE)	LBD	LBD/MMR	207.1015B CON	09/342964 6/29/99			
22-Aug-02	FINAL OFFICE ACTION RESPONSE DUE 8/23/02 (3 MONTH DATE)	LBD	LBD/MMR	207.1015B N4	09/523360 3/10/00			
22-Aug-02	OFFICE ACTION RESPONSE DUE 8/23/02 (1 MONTH DATE)	LBD	LBD/MMR	207.1301 CON	10/145190 5/14/02			
22-Aug-02	SEND REPORTING LETTER RE: FINAL OFFICE ACTION RECEIVED	CMD	LBD/MMR	207.1075 CON	09/824465 4/2/01			
22-Aug-02	AMEND CLAIMS BY 8/27/02? (DEADLINE DATE)	LBD	LBD/SLA	541.1027 EP	00983920.0			

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22-Aug-02	SEND REPORTING LETTER RE: PATENT GAZETTE	LBD	LBD/SLA	541.94378 JP	3300364			
22-Aug-02	EXECUTED POWER OF ATTORNEY FORM DUE 9/22/02	LBD	LBD/SLA	541.1020 MX	000073			
22-Aug-02	FILE MISSING PARTS & DRAWINGS DUE 8/24/02	CSK	MBW	174.1022	10/152367 5/21/02			
22-Aug-02	OFFICE ACTION RESPONSE DUE 8/27/02 (W/2 MO. EXT.)	CSK	MBW	423.1024	09/701477 11/29/00			✓
22-Aug-02	PRINTING/ISSUE FEES DUE 1/1/03	CMD	MBW	817.1001 CA	2243643			
22-Aug-02	FILE MISSING PARTS DUE 9/22/02	CSK	MBW	114.1005	NEW APPLICATION			
22-Aug-02	OFFICE ACTION RESPONSE DUE 8/23/02 (3 MONTH DATE)	LBD	MMR	207.1015B CON	09/342964 6/29/99			
22-Aug-02	FINAL OFFICE ACTION RESPONSE DUE 8/23/02 (3 MONTH DATE)	LBD	MMR	207.1015B N4	09/523360 3/10/00			

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22-Aug-02	OFFICE ACTION RESPONSE DUE 8/23/02 (1 MONTH DATE)	LBD	MMR	207.1301 CON	10/145190 5/14/02			
22-Aug-02	FILE MISSING PARTS DUE 9/5/02	CMD/RJP	MMR	200.93516 CONS	10/162132 6/4/02			
22-Aug-02	19TH MONTH NATIONAL PHASE DUE 9/5/02	CMD/RJP	MMR	300.1042 PCT	PCT/US02/03256			
22-Aug-02	FINAL OFFICE ACTION RESPONSE DUE 9/5/02 (3 MONTH DATE)	LBD/RVZ	MMR	207.1015B N2	09/523361 3/10/00			
22-Aug-02	OFFICE ACTION RESPONSE DUE 10/19/02 (DEADLINE DATE)	LBD/RVZ	MMR	207.1015B EP	96921643.1			
22-Aug-02	RECEIVED NOTICE OF ALLOWANCE OR FILE NOP BY 9/21/02?	CMD/RJP	MMR	200.1113 CON	09/615162 3/22/01			
22-Aug-02	SEND REPORTING LETTER RE: FINAL OFFICE ACTION RECEIVED	CMD/LBD	MMR	207.1075 CON	09/824465 4/2/01			
22-Aug-02	SEND REPORTING LETTER RE: SEARCH REPORT	CMD/RJP	MMR	300.1042 PCT	PCT/US02/03256			

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22-Aug-02	SEND REPORTING LETTER RE: RESPONSE TO OA FILED	CMD/RJP	MMR	200.1102 YU	P-394/00			
22-Aug-02	SEND REPORTING LETTER RE: RESPONSE TO OA FILED	CMD/RJP	MMR	200.1113 YU	P-395/00			
22-Aug-02	FILE MISSING PARTS & DRAWINGS DUE 8/25/02 (W/2 MO. EXT.)	CMD/RJP	MMR	300.1016	10/101438 31/8/02			
22-Aug-02	OFFICE ACTION RESPONSE DUE 8/27/02 (DEADLINE DATE)	CMD	RJP/BSD	332.94302 JP DIV	11-219274			
22-Aug-02	OFFICE ACTION RESPONSE DUE 8/27/02 (W/2 MO. EXT.)	CMD	RJP/BSD	228.1012	09/979852 11/27/01			
22-Aug-02	PROVISIONAL AND CONVENTION YEAR ENDS 9/5/02	CMD	RJP/BSD	478.1022P	60/317508 9/5/01			
22-Aug-02	OFFICE ACTION RESPONSE DUE 9/5/02 (3 MONTH DATE)	CMD	RJP/BSD	332.1122	09/918361 7/30/01			
22-Aug-02	PROVISIONAL & CONVENTION YEAR ENDS 8/29/02	CMD	RJP/BSD	478.1020P	60/315894 8/29/01			

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22-Aug-02	FINAL OFFICE ACTION RESPONSE DUE (W/2 MO. EXT.)	CMD	RJP/BSD	332.1113	09/730938 12/6/00			
22-Aug-02	SEND REPORTING LETTER RE: PUBLICATION	CMD	RJP/BSD	200.1079 CON 7	10/057632 1/25/02			
22-Aug-02	SEND REPORTING LETTER RE: PUBLICATION	CMD	RJP/BSD	200.1079 CON 2	10/056347 1/25/02			
22-Aug-02	1-3RD YEAR ANNUITIES DUE 9/5/02 ASSOCIATE WANTS INSTRUCTIONS BY 8/29/02	CMD	RJP/BSD	332.94205 JP	7-502570			
22-Aug-02	OFFICE ACTION RESPONSE DUE 9/19/02 (DEADLINE DATE)	CMD	RJP/CER	200.1066 JP	1999-507477			
22-Aug-02	SEND REPORTING LETTER RE: OFFICE ACTION RECEIVED	CMD	RJP/CER	200.1134	09/781076 2/8/01			
22-Aug-02	ORIGINAL POWER OF ATTORNEY FORM DUE	CMD	RJP/CER	200.1133 ID	NEW APPLICATION			
22-Aug-02	GRANT FEES AND CLAIMS FOR DIVISIONAL DUE (DEADLINE DATE)	CMD	RJP/DGK	200.1102 SG	200003321-7			

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22-Aug-02	GRANT FEES AND CLAIMS FOR DIVISIONAL DUE (DEADLINE DATE)	CMD	RJP/DGK	200.1113 SG	200003322-5			
22-Aug-02	FILE MISSING PARTS & DRAWINGS DUE 8/25/02 (W/2 MO. EXT.)	CMD	RJP/MMR	300.1016	10/10/1438 3/18/02			
22-Aug-02	FILE MISSING PARTS DUE 9/5/02	CMD	RJP/MMR	200.99516 CON3	10/16/2132 6/4/02			
22-Aug-02	19TH MONTH NATIONAL PHASE DUE 9/5/02	CMD	RJP/MMR	300.1042 PCT	PCT/US02/03256			
22-Aug-02	RECEIVED NOTICE OF ALLOWANCE OR FILE NOP BY 9/21/02?	CMD	RJP/MMR	200.1113 CON	09/18/15162 3/22/01			
22-Aug-02	SEND REPORTING LETTER RE: SEARCH REPORT	CMD	RJP/MMR	300.1042 PCT	PCT/US02/03256			
22-Aug-02	SEND REPORTING LETTER RE: RESPONSE TO OA FILED	CMD	RJP/MMR	200.1102 YU	P-394/00			
22-Aug-02	SEND REPORTING LETTER RE: RESPONSE TO OA FILED	CMD	RJP/MMR	200.1113 YU	P-395/00			

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22-Aug-02	SEND REPORTING LETTER RE: FINAL OFFICE ACTION RECEIVED	CMD	RUP/RVZ	228.1005	09/01/218 11/27/00		
22-Aug-02	PROVISIONAL AND CONVENTION YEAR ENDS 9/5/02	CMD	RUP/SJM	478.1021P	60/317522 9/5/01		
22-Aug-02	SEND REPORTING LETTER RE: FINAL OFFICE ACTION RECEIVED	CMD/RJP	RVZ	228.1005	09/01/218 11/27/00		
22-Aug-02	FINAL OFFICE ACTION RESPONSE DUE 9/5/02 (3 MONTH DATE)	LBD	RVZ/MMR	207.1015B N2	09/02/3361 3/10/00		
22-Aug-02	OFFICE ACTION RESPONSE DUE 10/19/02 (DEADLINE DATE)	LBD	RVZ/MMR	207.1015B EP	96921643.1		
22-Aug-02	OFFICE ACTION RESPONSE DUE 10/19/02 (DEADLINE DATE)	LBD	RVZ/MMR	207.1015B EP	96921643.1		
22-Aug-02	19TH MONTH NATIONAL PHASE DUE 8/26/02	CSK	SJM	218.1002 PCT	PCT/US02/00909		
22-Aug-02	19TH MONTH NATIONAL PHASE DUE 8/26/02	CSK	SJM	218.1004 PCT	PCT/US02/00905		

✓ 8/22/02
✓

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22-Aug-02	19TH MONTH NATIONAL PHASE DUE 8/26/02	CSK	SLM	218.1005 PCT	PCT/US02/01002			Do + 20178
22-Aug-02	PROVISIONAL AND CONVENTION YEAR ENDS 9/5/02	CMD/RJP	SLM	478.1021P	60317522 9/5/01			
22-Aug-02	INVITATION TO CORRECT DEFECTS DUE 9/5/02	CSK	SLM	218.1009 PCT	PCT/US02/21985			
22-Aug-02	OFFICE ACTION RESPONSE DUE (3 MONTH DATE)	CSK	SLM	206.1123	09636041 8/10/00			
22-Aug-02	FILE MISSING PARTS DUE 9/22/02	CSK	SJM	218.1006	10175137 6/19/02			
22-Aug-02	AMEND CLAIMS BY 8/27/02? (DEADLINE DATE)	LBD	SLA	541.1027 EP	00983920.0			
22-Aug-02	ISSUE FEE & DRAWINGS DUE 8/23/02	LBD/CSK	SLA	541.1024	09384130 8/27/99			
22-Aug-02	SEND REPORTING LETTER RE: PATENT GAZETTE	LBD	SLA	541.94378 JP	3300364			

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22-Aug-02	EXECUTED POWER OF ATTORNEY FORM DUE 9/22/02	LBD	SLA	541.1020 MX		000073		
22-Aug-02	OFFICE ACTION RESPONSE DUE 9/5/02 (3 MONTH DATE)	CSK	WCG	600.1040	09/05/3685 3/23/00			
22-Aug-02	OFFICE ACTION RESPONSE DUE 9/5/02 (3 MONTH DATE)	CSK	WCG	600.1160	09/05/0205 5/7/01			
22-Aug-02	OFFICE ACTION RESPONSE DUE (3 MONTH DATE)	CSK	WCG	514.1008	09/09/4248 11/26/01			
22-Aug-02	FINAL OFFICE ACTION RESPONSE DUE (3 MONTH DATE)	CSK	WCG	510.1019	09/21/4910 11/3/99			
22-Aug-02	SEND REPORTING LETTER RE: OFFICE ACTION RECEIVED	CSK	WCG	600.1163	09/09/4419 6/28/01			
22-Aug-02	TRANSLATIONS DUE 9/1/2002	CSK	WCG	331.1005				
22-Aug-02	FILE NEW APPLICATION BY 8/27/02	CSK	WCG/JMD	342.1002	NEW APPLICATION			

DAVIDSON, DAVIDSON KAPPEL, LLC

DOCKET REPORT THROUGH AUGUST 29, 2002

8/22/2002 11:04 AM

REMINDER DATE / DUE DATE	ACTION	PRIMARY	SECONDARY	FILE NUMBER	SERIAL NO/FILING DATE	DISPOSITION	REASSIGNED TO... (NEW REMINDER OR DUE DATE)
22-Aug-02	FILE NEW APPLICATION BY 8/29/02	CSK	WCG/JMD	487.1054		NEW APPLICATION	

EXHIBIT B

required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

(3) *Failure to comply with requirements.* If the requirements of paragraphs (c)(1) and (c)(2) of this section are not complied with, such failure will either: be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in § 1.17(i), or result in a requirement for compliance within a one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, at the option of the Office.

(d) *Payment of deficiency operates as notification of loss of status.* Any deficiency payment (based on a previous erroneous payment of a small entity fee) submitted under paragraph (c) of this section will be treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

[47 FR 40140, Sept. 10, 1982, added effective Oct. 1, 1982; para. (a), 49 FR 553, Jan. 4, 1984, effective Apr. 1, 1984; para. (d)(2), 57 FR 2021, Jan. 17, 1992, effective Mar. 16, 1992; para. (c) revised, 58 FR 54504, Oct. 22, 1993, effective Jan. 3, 1994; para. (a) revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; paras. (a) & (c) revised, 62 FR 53131, Oct. 10 1997, effective Dec. 1, 1997; revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000]

Subpart B — National Processing Provisions

PROSECUTION OF APPLICATION AND APPOINTMENT OF ATTORNEY OR AGENT

§ 1.31 Applicants may be represented by a registered attorney or agent.

An applicant for patent may file and prosecute his or her own case, or he or she may be represented by a registered attorney, registered agent, or other individual authorized to practice before the Patent and Trademark Office in patent cases. See §§ 10.6 and 10.9 of this subchapter. The Patent and Trademark Office cannot aid in the selection of a registered attorney or agent.

[50 FR 5171, Feb. 6, 1985, effective Mar. 8, 1985]

§ 1.32 [Reserved]

[Deleted 57 FR 29642, July 6, 1992, effective Sept. 4, 1992]

§ 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

(a) *Correspondence address and daytime telephone number.* When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered attorney or agent, or with more than one registered attorney or agent except as deemed necessary by the Director. If more than one correspondence address is specified, the Office will establish one as the correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence

EXHIBIT C

previously established on the filing of the application, or changed per 37 CFR 1.63(a)(1), even if the application was filed by a company that is only a partial assignee. The expression "party that will be the assignee," rather than assignee, is used in that until a declaration is submitted, inventors have only been identified, and any attempted assignment, or partial assignment, cannot operate for Office purposes until the declaration is supplied. Hence, if the application transmittal letter indicates that the application is being filed on behalf of XYZ company, with an assignment to be filed later, XYZ company would be allowed to change the correspondence address without resort to 37 CFR 3.73(b) until an executed oath or declaration is filed, and with resort to 37 CFR 3.73(b) after the oath or declaration is filed.

Where a correspondence address was set forth or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of a 37 CFR 1.63 oath or declaration), that correspondence address remains in effect upon filing of a 37 CFR 1.63 declaration and can then only be changed pursuant to 37 CFR 1.33(a)(2).

37 CFR 1.33 states that when an attorney has been duly appointed to prosecute an application correspondence will be held with the attorney unless some other correspondence address has been given. Double correspondence with an applicant and his or her attorney, or with two representatives, will not be undertaken. See MPEP § 403.01, § 403.02, and § 714.01(d).

If double correspondence is attempted, form paragraph 4.01 should be included in the next Office action.

¶ 4.01 Dual Correspondence

Applicant has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorney or agent will not be undertaken. Accordingly, applicant is required to conduct all future correspondence with this Office through the attorney or agent of record. See 37 CFR 1.33.

Examiner Note:

1. The first time a reply is received directly from applicant, include this paragraph in the Office action and send a copy of the action to the applicant. See MPEP §§ 403 and 714.01.
2. Should applicant file additional replies, do not send copies of subsequent Office actions to the applicant.
3. Status letters from the applicant may be acknowledged in isolated instances.

In a joint application with no attorney or agent, the applicant whose name first appears in the papers

receives the correspondence, unless other instructions are given. All applicants must sign the replies. See MPEP § 714.01(a). If the assignee of the entire interest is prosecuting the application (MPEP § 402.07), the assignee may specify a correspondence address.

37 CFR 1.33(c) relates to which address communications for the patent owner will be sent in reexamination proceedings. See also MPEP § 2224.

Powers of attorney to firms are not recognized by the U.S. Patent and Trademark Office. See MPEP § 204. However, the firm's address will be considered to be the correspondence address. The address should appear as follows:

John Doe (inventor)
In care of Able, Baker, and Charlie (firm)
1234 Jefferson Davis Highway
Arlington, Virginia 22202

See MPEP § 601.03 for change of correspondence address.

See MPEP § 201.06(c) regarding change of correspondence address in continuation or divisional applications filed under 37 CFR 1.53(b).

CUSTOMER NUMBER PRACTICE

A Customer Number (previously a "Payor Number") may be used to:

(A) designate the correspondence address of a patent application by a Customer Number such that the correspondence address for the patent application would be the address associated with the Customer Number;

(B) designate the fee address (37 CFR 1.363) of a patent by a Customer Number such that the fee address for the patent would be the address associated with the Customer Number; and

(C) submit a list of practitioners by Customer Number such that an applicant may in a Power of Attorney appoint those practitioners associated with the Customer Number.

Thus, a Customer Number may be used to designate the address associated with the Customer Number as the correspondence address of an application (or patent) or the fee address of a patent, and may also be used to submit a power of attorney in the application (or patent) to the registered practitioners associated with the Customer Number.

Customer Number whether a particular practitioner is associated with that Customer Number.

As the Office will not recognize more than one correspondence address (37 CFR 1.33(a)), any inconsistencies between the correspondence address resulting from a Customer Number being provided in an application for the correspondence address and any other correspondence address provided in that application would be resolved in favor of the address of the Customer Number. Due to the prohibition against dual correspondence in an application (37 CFR 1.33(a)), an applicant will be permitted to provide only a single number at a time as the Customer Number for the correspondence address.

Where an applicant appoints all of the practitioners associated with a Customer Number as well as a list of individually named practitioners, such action would be treated as only an appointment of all of the practitioners associated with a Customer Number due to the potential for confusion and data entry errors in entering registration numbers from plural sources.

Although Customer Numbers are designed to designate both a correspondence address and to associate one or more patent attorneys or agents with an application, one Customer Number may be used for the correspondence address, and another Customer Number may be used for the power of attorney.

Applicants are strongly cautioned not to attempt to appoint more than one Customer Number for a particular purpose (e.g., correspondence address) in a single communication, as such action will **not** have a cumulative effect.

The Office has created a box designation for correspondence related to a Customer Number ("Box CN"), and all correspondence related to a Customer Number (e.g., requests for a Customer Number) should be addressed to this box designation.

The following persons are authorized to change the information associated with an established Customer Number: (1) a registered practitioner associated with the Customer Number; and (2) the person who requested the Customer Number (signed the Request for Customer Number, Form PTO/SB/125).